

Committee on Government Reform

Tom Davis, Chairman



MEDIA ADVISORY

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Government Reform Committee to Review SAFETY Act Implementation

What: Government Reform Committee Oversight Hearing: "Implementing the SAFETY Act: Advancing New Technologies for Homeland Security"

When: Friday, October 17, 2003, 10 a.m.

Where: Room 2154, Rayburn House Office Building

"The Department of Homeland Security needs to be careful that its implementing regulations and processes are not so complicated that they defeat the very purpose of the SAFETY Act. They should allow for the rapid deployment of anti-terrorism technology necessary to protect the American people, rather than create burdensome red tape and bureaucracy. Wherever possible, decisions regarding the suitability of anti-terrorism technology should rest with those entities charged with the responsibility of acquiring the technology. It is also imperative that DHS adheres to a disciplined time schedule for processing applications."

■ Chairman Tom Davis

Background:

The private sector is an important partner in providing for the security of the homeland. To ensure that private sellers, manufacturers, and service providers contribute to homeland security by developing potentially life-saving technologies without having to fear crippling or frivolous lawsuits, the government needs to provide litigation management frameworks in the event of a terrorist attack.

As part of the Homeland Security Act of 2002, Congress enacted the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 ("SAFETY Act") to provide incentives for the development and deployment of anti-terrorism technologies by creating systems of "risk management" and "litigation management." The SAFETY Act seeks to ensure that the threat of liability does not deter manufacturers or sellers of anti-

terrorism technologies from developing and commercializing technologies that, quite simply, could save lives.

The SAFETY Act directs the Department of Homeland Security (DHS) to adopt regulations to implement the liability protections conferred by the Act for Qualified Anti-Terrorism Technologies (QATTs). Under the statute, QATTs would receive the following protections:

- Lawsuits made under the Act are limited to Federal court;
- A plaintiff is prohibited from recovering punitive damages, but can recover non-economic damages (such as damages for physical and emotional pain); and
- Any recovery from the seller will be reduced by the amount of any collateral sources (such as insurance payments).

On July 11, 2003, DHS announced draft regulations implementing the SAFETY Act that were published in the *Federal Register* for public comment. Over forty private firms and private sector associations responded to the proposed rule with comments for consideration. On October 16, 2003, the interim final rule was published in the *Federal Register*.

Under the SAFETY Act, Congress intended a transparent process for DHS to qualify appropriate existing and new technologies for liability protections so they can be immediately deployed in the war on terror. When DHS issued the draft regulations in July, it stated it would begin accepting applications for SAFETY Act protections on September 1, 2003. But thus far, private firms are waiting to submit applications until implementing regulations are finalized. It is imperative, then, that DHS expeditiously adopt an application form, finalize qualification procedures, and begin to process applications without creating excessive bureaucratic hurdles that impede progress in accomplishing this critical purpose of the SAFETY Act. Anti-terrorism technologies must be qualified and deployed so that they can protect the American people from terrorist attack.

Through this hearing, the Committee seeks to learn about the interim final rule promulgated by DHS and whether the rule mirrors the Congressional intent of the Act. The Committee hopes that this open discussion will result in effective implementation of the Act.

WITNESSES

The Honorable Parney Albright, Assistance Secretary for Plans, Programs, and Budgets, Department of Homeland Security

Mr. Harris Miller, President, Information Technology Association of America

Mr. Stan Z. Soloway, President, Professional Services Council

Mr. John Clerici, representing the U.S. Chamber of Commerce

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